

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

DOCKET NO. 3:07CRI11-C

UNITED STATES OF AMERICA,

v.

MICHAEL A. NAPIER

PETITION OF JAMES B. MYERS, III

**CONSENT ORDER
FOR THIRD-PARTY PETITION**

THIS MATTER is before the Court by consent of the United States of America, by and through Gretchen C. F. Shappert, United States Attorney for the Western District of North Carolina, and petitioner James B. Myers, III ("petitioner"), through counsel, pursuant to Fed. R. Crim. P. 32.2(c). The government and petitioner have consented to this order as a final adjudication and settlement of all matters with regard to the following property (the "subject property") covered by the Consent Order and Judgment of Forfeiture, which is a preliminary order with respect to the subject property, filed herein on October 27, 2007:

(g) fitness and gym equipment seized on or about July 3, 2007, including treadmills, weight machines, Body Masters CX machines, smith machines, and elliptical machines, previously stored in Portable On Demand Storage Units (PODS) at 7171 Stinson Hartis Road, Indian Trail, North Carolina.

The government and petitioner have stipulated and agreed and the Court finds as follows:

1. Petitioner has filed a timely petition in response to the Consent Order and Judgment and the Court has jurisdiction over the subject property.
2. Defendant Napier ("defendant") has or had a legal ownership interest in the subject property that is subject to forfeiture under the applicable statutes. Petitioner and the United States agree that petitioner has a valid lien on the subject property to secure a debt and is therefore entitled to possession and to dispose of the property in accordance with the terms of the lien, under applicable law.
3. On or before taking possession of the subject property, petitioner agrees to pay the storage costs then due, which are currently estimated to be \$4,416.09 for the period through June 15, 2008. Petitioner further agrees to take possession of all fitness items and equipment seized and stored together, as described above.
4. Petitioner hereby releases and forever discharges the United States, its agents, servants and employees, its successors or assigns, and all state or local governmental entities or law enforcement agencies in North Carolina and their agents, servants and employees, their heirs, successors, or assigns, from any and all actions, causes of action, suits, proceedings, debts, dues, contracts, judgments, damages, claims, and/or demands

whatsoever in law or equity which petitioner or her heirs, successors, or assigns ever had, now have, or may have in the future in connection with this investigation, seizure, detention, and forfeiture.

IT IS THEREFORE ORDERED THAT:

1. The preliminary order is amended by deleting the subject property, and the government's forfeiture claim to that property is hereby dismissed with prejudice.
3. Except as specifically provided herein, each party shall bear its own costs, including attorneys fees.

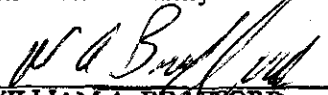
Signed this the 6th day of June, 2008.


ROBERT J. CONRAD
UNITED STATES DISTRICT JUDGE

ON MOTION OF AND BY CONSENT OF THE PARTIES:

FOR THE UNITED STATES OF AMERICA:


GRETCHEN C. F. SHAPPERT
United States Attorney

By 
WILLIAM A. BRAEFORD
Assistant United States Attorney

Date: Jun 5, 2008


JAMES B. MYERS, III

Date: 29 May 08


SANDRA L. KNOX
Attorney for Petitioner

Date: June 2, 2008